

### REMARKS

Claims 1-21 are pending in this application and are subject to restriction under 35 U.S.C. § 121.

#### **Restriction Requirement**

In the present Office Action, restriction is required between the following groups:

- Group I:** Claim 1-6 and 8 drawn to compounds and compositions according to Formula (I) of claim 1.
- Group II:** Claims 7 and 9-21 drawn to various methods of use for the compounds of Formula I.

Applicants respectfully traverse the requirement for restriction and respectfully request reconsideration of the requirement itself.

According to MPEP § 803, there are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05-§ 806.05(i)); and
- (B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) to § 806.04(i), § 808.01(a), and § 808.02).

Applicants respectfully submit that Groups I-II should be rejoined because examination of compounds of the present invention and methods of using these same compounds would not impose a serious burden on the Examiner. For example, a search for art related to the compounds of the present invention would necessarily also uncover art related to methods of using the same compounds. Accordingly, Applicants submit that the same search could be used for examination of both grouped inventions. To be fully responsive, however, Applicants hereby elect the claims of group I while reserving the right to prosecute the claims of non-elected groups in future applications.

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**PATENT**


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The Office Action also requires a species election of a single compound. Applicants elect as a species election, the compound of example 1, {[1-(4-*tert*-butylbenzyl)-5-(3-methylphenyl)-1*H*-indol-3-yl](oxo)acetyl]amino}acetic acid. In this compound, R<sub>1</sub> is benzyl substituted by C<sub>1</sub>-C<sub>6</sub> alkyl, R<sub>2</sub> is hydrogen, R<sub>3</sub> is hydrogen, R<sub>4</sub> is phenyl substituted by C<sub>1</sub>-C<sub>3</sub> alkyl, R<sub>8</sub> is hydrogen, and R<sub>9</sub> is hydrogen. It is Applicants' understanding that this species election is being made to aid the Examiner in conducting a search and examination of the claimed subject matter, and is not to be construed as limiting the scope of Applicants' claims. It is also Applicants' understanding that if the elected subject matter is found to be allowable over the prior art, the search and examination will be expanded to cover the full scope of the claims. Claims 1-4 and 7-21 read on the elected species.

Applicants believe that the foregoing constitutes a complete and full response to the Office Action of record. An early and favorable consideration of the present application is respectfully requested.

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Leslie E. Aberman  
Registration No. 54,836

Woodcock Washburn LLP  
One Liberty Place - 46th Floor  
Philadelphia PA 19103  
Telephone: (215) 568-3100  
Facsimile: (215) 568-3439